IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7296 of 2007()

CRIME NO.239/2007 OF POTHANIKKAD POLICE STATION

: PETITIONER/ACCUSED

ELIYAS MOULAVI,
S/O MAKKAR HAJI, AGED 40 YEARS,
KALLAMPURATH HOUSE,
KOOVALLOOR, PALLARIMANGALAM.

BY ADV. SRI.P.M.HABEEB

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, POTHANIKKAD POLICE
STATION, ERNAKULAM, THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7296 of 2007

Dated this the 28th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner faces arrest in crime No.239/2007 of Pothanikkad police station on the allegation that he has committed non-bailable offences.

2. The learned Public Prosecutor, after taking instructions submits that at present there is no allegation against the petitioner of having committed any non-bailable offence. The allegation against him is only under Sections 341 and 323, both offences are bailable. The petitioner can appear before the police or the learned Magistrate and seek regular bail. Powers under Section 438 Cr.P.C does not deserve to be invoked, submits the learned Public Prosecutor.

3. I take note of the submissions of the learned Public Prosecutor and do hereby make record of the same. In the light of the submissions of the learned Public Prosecutor, the apprehension of the petitioner that he will be arrested in a non-bailable offence is without any basis or merit.

4. The learned counsel for the petitioner airs an apprehension that at some later point of time, allegations of non-bailable offences may also be raised against the petitioner to vex and harass them.

5. The learned Public Prosecutor submits that if any such non-bailable offence is later included, prior notice shall be given to the petitioner and prior permission of this court shall be taken before any attempt is made to arrest the petitioner. That submission is also recorded.

6. This bail application is in these circumstances dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007